

05-149

<b>FCC 601</b> <b>Main Form</b>	DOCKET FILE COPY ORIGINAL <b>FCC Application for Wireless          Telecommunications Bureau          Radio Service Authorization</b>	Approved by OMB 3060 - 0798 See instructions for public burden estimate Submitted 03/09/2005 at 02:34PM  File Number: <b>0002069941</b>
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1) Radio Service Code: <b>CW</b>	1a) Existing Radio Service Code:
2) Application Purpose: <b>Amendment</b>	
3a) If this request is for a <u>D</u> evelopmental License, <u>D</u> emonstration License, or a <u>S</u> pecial Temporary Authorization (STA), enter the code and attach the required exhibit as described in the instructions. Otherwise enter <u>N</u> (Not Applicable).	( <u>N</u> ) <u>D</u> <u>M</u> <u>S</u> <u>N/A</u>
3b) If this request is for Special Temporary Authority due to an emergency situation, enter 'Y'; otherwise enter 'N'. Refer to Rule 1.915 for an explanation of situations considered to be an emergency.	( <u>N</u> ) <u>Yes</u> <u>No</u>
4) If this request is for an Amendment or Withdrawal, enter the file number of the pending application currently on file with the FCC.	File Number: <b>0002069941</b>
5) If this request is for a Modification, Renewal Only, Renewal/Modification, Cancellation of License, Consolidate Call Signs, Duplicate License, or Administrative Update, enter the call sign of the existing FCC license.	Call Sign:
6) If this request is for a New, Amendment, Renewal Only, or Renewal/Modification, enter the requested authorization expiration date (this item is optional).	
7) Is this request "major" as defined in Section 1.929 of the Commission's Rules when read in conjunction with the applicable radio service rules found in Parts 22 and 90 of the Commission's Rules? (NOTE: This question only applies to certain site-specific applications. See the instructions for applicability and full text of Section 1.929)	( ) <u>Yes</u> <u>No</u>
8a) Does this filing request a Waiver of the Commission's Rules? If "Yes", attach an exhibit providing the rule numbers and expanding circumstances.	( <u>N</u> ) <u>Yes</u> <u>No</u>
8b) If a feeable waiver request is attached, multiply the number of stations (call signs) times the number of rule sections and enter the result.	
8c) Are the frequencies or parameters requested in this filing covered by grandfathered privileges, previously approved by waiver, or functionally integrated with an existing station?	( ) <u>Yes</u> <u>No</u>
9) Are attachments being filed with this application?	( <u>Y</u> ) <u>Yes</u> <u>No</u>

**Applicant Information**

10) FCC Registration Number (FRN): <b>0005374434</b>			
11) Licensee is a(n): <b>Limited Liability Corporation</b>			
12) First Name (if individual):	MI:	Last Name:	Suffix:
13) Entity Name (if other than individual): <b>Lafayette Communications Company L.L.C.</b>			
14) Name of Real Party in Interest of Applicant (if different from applicant):			
15) Taxpayer Identification Number of Real Party in Interest:			
16) Attention To: <b>John Duff</b>			
17) P.O. Box:	And/OR	18) Street Address: <b>Two Embarcadero Center Suite 2300</b>	

19) City: <b>San Francisco</b>	20) State: <b>CA</b>	21) Zip Code: <b>94111</b>
22) Telephone Number: <b>(415)788-2755</b>		23) FAX Number: <b>(415)788-7311</b>
24) E-Mail Address:		

**Contact Information (If different than applicant)**

25) First Name: <b>Michele</b>	MI: <b>C</b>	Last Name: <b>Farquhar</b>	Suffix:
26) Entity Name: <b>Hogan &amp; Hartson L.L.P.</b>			
27) P.O. Box:	And/Or	28) Street Address: <b>555 Thirteenth Street, NW</b>	
29) City: <b>Washington</b>	30) State: <b>DC</b>	31) Zip Code: <b>20004</b>	
32) Telephone Number: <b>(202)637-5663</b>		33) FAX Number: <b>(202)637-5910</b>	
34) E-Mail Address: <b>MCFarquhar@hhlaw.com</b>			

**Regulatory Status**

35) This filing is for authorization to provide or use the following type(s) of radio service offering (enter all that apply):	( <input checked="" type="checkbox"/> ) <b>Common Carrier</b>
	( <input type="checkbox"/> ) <b>Non-Common Carrier</b>
	( <input type="checkbox"/> ) <b>Private, internal communications</b>
	( <input type="checkbox"/> ) <b>Broadcast Services</b>
	( <input type="checkbox"/> ) <b>Band Manager</b>

**Type of Radio Service**

36) This filing is for authorization to provide the following type(s) of radio service (enter all that apply):	( <input type="checkbox"/> ) <b>Fixed</b>
	( <input checked="" type="checkbox"/> ) <b>Mobile</b>
	( <input type="checkbox"/> ) <b>Radiolocation</b>
	( <input type="checkbox"/> ) <b>Satellite (sound)</b>
	( <input type="checkbox"/> ) <b>Broadcast Services</b>
37) Interconnected Service? ( <input checked="" type="checkbox"/> ) <b>Yes</b> ( <input type="checkbox"/> ) <b>No</b>	

**Fee Status**

38) Is the Applicant exempt from FCC application fees?	( <input type="checkbox"/> ) <b>Yes</b> ( <input checked="" type="checkbox"/> ) <b>No</b>
39) Is the Applicant exempt from FCC regulatory fees?	( <input type="checkbox"/> ) <b>Yes</b> ( <input checked="" type="checkbox"/> ) <b>No</b>

**Alien Ownership Questions (If any answer is Yes, attach exhibit explaining circumstances.)**

40) Is the applicant a foreign government or the representative of any foreign government?	( <input type="checkbox"/> ) <b>Yes</b> ( <input checked="" type="checkbox"/> ) <b>No</b>
41) Is the applicant an alien or the representative of an alien?	( <input type="checkbox"/> ) <b>Yes</b> ( <input checked="" type="checkbox"/> ) <b>No</b>
42) Is the applicant a corporation organized under the laws of any foreign government?	( <input type="checkbox"/> ) <b>Yes</b> ( <input checked="" type="checkbox"/> ) <b>No</b>
43) Is the applicant a corporation of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country?	( <input type="checkbox"/> ) <b>Yes</b> ( <input checked="" type="checkbox"/> ) <b>No</b>

44) Is the applicant directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country?	( N ) Yes <u>No</u>
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### Basic Qualification Questions (If any answer is Yes, attach exhibit explaining circumstances.)

45) Has the applicant or any party to this application or amendment had any FCC station authorization, license, or construction permit revoked or had any application for an initial, modification or renewal of FCC station authorization, license, construction permit denied by the Commission?	( N ) Yes <u>No</u>
46) Has the applicant or any party to this application or amendment, or any party directly or indirectly controlling the applicant, ever been convicted of a felony by any state or federal court?	( N ) Yes <u>No</u>
47) Has any court finally adjudged the applicant or any party directly or indirectly controlling the applicant guilty of unlawfully monopolizing or attempting unlawfully to monopolize radio communication, directly or indirectly, through control of manufacture or sale of radio apparatus, exclusive traffic arrangement, or any other means or unfair methods of competition?	( N ) Yes <u>No</u>
48) Is the applicant or any party directly or indirectly controlling the applicant, currently a party in any pending matter referred to in the preceding two items?	( N ) Yes <u>No</u>

### Aeronautical Advisory Station (Unicom) Certification

49) ( ) I certify that the station will be located on property of the airport to be served, and, in cases where the airport does not have a control tower, RCO, or FAA flight service station, that I have notified the owner of the airport and all aviation service organizations located at the airport within ten days prior to application.
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### 50) Race, Ethnicity, Gender of Applicant/Licensee (Optional)

Race:	American Indian or Alaska Native:	Asian:	Black or African-American:	Native Hawaiian or Other Pacific Islander:	White:
Ethnicity:	Hispanic or Latino:	Not Hispanic or Latino:			
Gender:	Female:	Male:			

### General Certification Statements

1) The applicant waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application.
2) The applicant certifies that grant of this application would not cause the applicant to be in violation of any pertinent cross-ownership, attribution, or spectrum cap rule.* *If the applicant has sought a waiver of any such rule in connection with this application, it may make this certification subject to the outcome of the waiver request.
3) The applicant certifies that all statements made in this application and in the exhibits, attachments, or documents incorporated by reference are material, are part of this application, and are true, complete, correct, and made in good faith.
4) The applicant certifies that neither the applicant nor any other party to the application is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862, because of a conviction for possession or distribution of a controlled substance. This certification does not apply to applications filed in services exempted under Section 1.2002(c) of the rules, 47 CFR § 1.2002(c). See Section 1.2002(b) of the rules, 47 CFR § 1.2002(b) for the definition of 'party to the application' as used in this certification.
5) The applicant certifies that it either (1) has current Form 602 on file with the Commission, (2) is filing an update Form 602 simultaneously with this application, or (3) is not required to file Form 602 under the Commission's Rules.

6) The applicant certifies that the facilities, operations, and transmitters for which this authorization is hereby requested are either: (1) categorically excluded from routine environmental evaluation for RF exposure as set forth in 47 C.F.R. § 1.1307(b); or, (2) have been found not to cause human exposure to levels of radiofrequency radiation in excess of the limits specified in 47 C.F.R. §§ 1.1310 and 2.1093; or, (3) are the subject of one or more Environmental Assessments filed with the Commission.

### Signature

51) Typed or Printed Name of Party Authorized to Sign			
First Name: John	MI: M	Last Name: Duff	Suffix: Jr.
52) Title: President & CEO			
Signature: John M Duff Jr.			53) Date: 03/09/05
Failure To Sign This Application May Result In Dismissal Of The Application And Forfeiture Of Any Fees Paid			
<p>Upon grant of this license application, the licensee may be subject to certain construction or coverage requirements. Failure to meet the construction or coverage requirements will result in termination of the license. Consult appropriate FCC regulations to determine the construction or coverage requirements that apply to the type of license requested in this application.</p> <p>WILLFUL FALSE STATEMENTS MADE ON THIS FORM OR ANY ATTACHMENTS ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. Code, Title 18, Section 1001) AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. Code, Title 47, § 312(a)(1)), AND/OR FORFEITURE (U.S. Code, Title 47, § 503).</p>			

FCC 601 Schedule B	Schedule for Geographically Licensed Services	Approved by OMB 3060 - 0798 See instructions for public burden estimate
		File Number: 0002069941

Market/Channel Block				
1) Market Designator	2) Market Name	3) Channel Block	4) Sub-Market Designator	5) I am seeking a Tribal Lands Bidding Credit in this market
BTA189	Hickory-Lenoir-Morganton, NC	C5	5	No

Tribal Lands Information						
6) Market Designator	7) Channel Block	8) Name of Tribal Lands	9) Area, in square kilometers, of tribal lands contained within designated market	10) Indicate with an "X" those tribal lands where applicant has secured the required certification(s) from the tribal governments (attach certification(s))	11) The amount of bidding credit as defined by FCC Rules (by Market)	12) Additional amount of bidding credit requested (attach justification)

**Certification Statements**  
For Applicants Claiming Eligibility as an Entrepreneur Under the General Rule

*Applicant certifies that they are eligible to obtain the licenses for which they apply.*

**For Applicants Claiming Eligibility as a Publicly Traded Corporation**

Applicant certifies that they are eligible to obtain the licenses for which they apply and that they comply with the definition of a Publicly Traded Corporation, as set out in the applicable FCC rules.

**For Applicants Claiming Eligibility using a Control Group Structure**

Applicant certifies that they are eligible to obtain the licenses for which they apply.

Applicant certifies that the applicant's sole control group member is a pre-existing entity, if applicable.

**For Applicants Claiming Eligibility as a Very Small Business, Very Small Business Consortium, Small Business, or as a Small Business Consortium**

Applicant certifies that they are eligible to obtain the licenses for which they apply.

Applicant certifies that the applicant's sole control group member is a pre-existing entity, if applicable.

**For Applicants Claiming Eligibility as a Rural Telephone Company**

Applicant certifies that they meet the definition of a Rural Telephone Company as set out in the applicable FCC rules, and must disclose all parties to agreement(s) to partition licenses won in this auction. See applicable FCC rules.

**For Applicants Claiming Tribal Lands Bidding Credit**

Applicant certifies that it will comply with the bidding credit buildout requirements and consult with the tribal government(s) regarding the siting of facilities and deployment of service on the tribal land(s) as set out in the applicable FCC rules.

The copy resulting from Print Preview is intended to be used as a reference copy only and MAY NOT be submitted to the FCC as an application for manual filing.

**Attachment List**

Attachment Type	Date	Description	Contents
Other	03/07/05	Designated Entities (Exh D)	<a href="#">0179995012768055703660492.pdf</a>
Other	03/07/05	Agreements and Other Instruments (Exh E)	<a href="#">0179995032768055703660492.pdf</a>
Other	03/07/05	Geographic Overlap (Exh H)	<a href="#">0179995042768055703660492.pdf</a>
Ownership	03/09/05	Applicant Identity and Ownership Information (Exh A Revised)	<a href="#">0180000362768055703660492.pdf</a>

**Exhibit A**  
**Applicant Identity and Ownership Information**

Lafayette Communications Company L.L.C., FRN 0005374434 (“**Applicant**” or “**Lafayette**”)

Two Embarcadero Center

Suite 2300

San Francisco, CA 94111

Citizenship: Delaware limited liability company

Lafayette is concurrently submitting an updated FCC Form 602 (“FCC Ownership Disclosure Information for the Wireless Telecommunications Services”).

**Part 1. Direct Ownership Information**

*Lafayette has two members, as set forth below:*

- a. Mr. John M. Duff, Jr., FRN 0012218293 (“**Duff**”)  
Two Embarcadero Center  
Suite 2300  
San Francisco, CA 94111

Duff is a U.S. citizen and is the President and CEO of Lafayette.

Duff owns 61.0 percent of the equity of Lafayette and controls 61.0 percent of the vote. Duff individually holds 61.0 percent of the vote and equity of Lafayette. The Lafayette LLC Agreement provides that Lafayette shall be managed by Duff. Accordingly, Duff holds *de jure* and *de facto* control of Lafayette. Duff is the “controlling interest” of Lafayette under Section 1.2110(c)(2) of the Commission’s rules. Other than Duff, no other party controls Lafayette.

Duff owns no 10 percent or greater direct or indirect interest in any FCC-regulated businesses, with the exception of Lafayette. Furthermore, Duff has no affiliates.

- b. SunCom Wireless Affiliate Company, L.L.C., FRN 0012230330 (“**SunCom Affiliate**”)  
103 Foulk Road  
Suite 202  
Wilmington, DE 19083  
Citizenship: Delaware limited liability company

SunCom Affiliate holds a 39.0 percent equity and voting interest in Lafayette. Because SunCom Affiliate does not control Lafayette, SunCom Affiliate is a

March 9, 2005

Exhibit A (Revised)  
Page 2 of 3

non-attributable investor for purposes of determining Lafayette's Designated Entity ("DE") status for Auction No. 58.

SunCom Affiliate has no 10 percent or greater holdings in any FCC-regulated businesses, with the exception of Lafayette. SunCom Affiliate's parent company, Triton PCS Holdings, Inc. has holdings in FCC-regulated businesses, as disclosed in Section 3.a., below.

## **Part 2. Indirect Ownership Information**

There is only one party holding a 10 percent or greater indirect ownership interest in Lafayette, as set forth below:

- a. Triton PCS Holdings, Inc., FRN 0007414907 ("**Triton Holdings**")  
1100 Cassatt Road  
Berwyn, PA 19312  
Citizenship: Delaware corporation  
Principal Business: wireless telecommunications

Triton Holdings is the parent company of Suncom Affiliate. Accordingly, Triton Holdings holds an indirect, non-attributable, non-controlling 39.0 percent equity and voting interest in Lafayette.

In Exhibit A to its Form 175, Lafayette reported another indirect owner, SunCom Wireless Investment Company, L.L.C., FRN 0012220125, ("**SunCom Investment**") which was, at the time of filing, the direct parent of SunCom Affiliate. As part of a recent corporate restructuring, SunCom Investment was removed from the ownership chain between Triton Holdings and SunCom Affiliate. Therefore, SunCom Investment no longer holds an indirect interest in Lafayette.<sup>1</sup>

## **Part 3. Other Discloseable Interests and Entities**

Neither the Applicant nor Triton Holdings has 10 percent or greater holding in any FCC-regulated businesses, with the exception of Lafayette, Triton PCS License Co., LLC, Triton License Newco, LLC, and AWS Network Newco, LLC.

- a. Triton PCS License Company, LLC, FRN 003246055 ("**Triton License**")  
1100 Cassatt Road  
Berwyn, PA 19312  
Citizenship: Delaware limited liability company  
Principal Business: commercial mobile radio service provider

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<sup>1</sup> This clarification is being made in this revised Exhibit A at the request of FCC staff.

Triton License holds cellular and PCS licenses and provides service to wireless service subscribers in the southeastern United States, and is an indirect wholly-owned subsidiary of Triton Holdings. The chain of ownership that links Triton License to Triton Holdings is as follows: Triton License is wholly owned by Triton PCS Holdings Company, LLC, FRN 0007421670, which is wholly owned by SunCom Wireless, Inc., FRN 0003246642. SunCom Wireless, Inc. is wholly owned by SunCom Wireless Investment Co., LLC, FRN 0012220125, and Triton Holdings wholly owns SunCom Wireless Investment Company. Because Triton Holdings also wholly owns SunCom Affiliate, Triton License is a non-attributable affiliate of Lafayette.

- b. Triton License Newco, LLC, FRN 0012052270 (“**Triton Newco**”)  
1100 Cassatt Road  
Berwyn, PA 19312  
Citizenship: Delaware limited liability company  
Principal Business: commercial mobile radio service provider

Like Triton License, Triton Newco holds PCS licenses and provides service to wireless service subscribers in the southeastern United States. Triton Newco is a wholly-owned subsidiary of Triton License. Therefore, like Triton License, Triton Newco is a non-attributable affiliate of Lafayette.

- c. AWS Network Newco, LLC, FRN 0011700556 (“**AWS Network**”)  
1100 Cassatt Road  
Berwyn, PA 19312  
Citizenship: Delaware limited liability company  
Principal Business: commercial mobile radio service provider

AWS Network leases PCS and microwave spectrum from entities controlled by Cingular Wireless, LLC, which is used to provide service to wireless subscribers in North Carolina, South Carolina, Puerto Rico, and the U.S. Virgin Islands. Like Triton License and Triton Newco, AWS Network is an indirect wholly-owned subsidiary of Triton Holdings. The chain of ownership that links AWS Network to Triton Holdings is as follows: AWS Network is the wholly-owned subsidiary of Triton Network Newco, LLC, FRN 0012053559. Triton Network Newco is owned 99.8 percent by SunCom Wireless Operating Company, LLC, FRN 0003748431, and 0.2 percent by Triton PCS Property Company, LLC, FRN 0012104436. Each of these companies is a wholly-owned subsidiary of Triton PCS Holdings Company, LLC, FRN 0007421670. As discussed in Part 3.a., above, Triton PCS Holdings Company, LLC is an indirect wholly-owned subsidiary of Triton Holdings. Therefore, like Triton License and Triton Newco, AWS Network is a non-attributable affiliate of Lafayette.



## Exhibit D Designated Entities

### Part 1. Claimed Eligibility Status

Pursuant to Section 24.720(b) of the Commission's rules, Lafayette qualifies as a "very small business" and is therefore eligible to receive a 25 percent bidding credit on the license it obtained in open bidding. Lafayette's average annual gross revenues are not more than \$15 million for the preceding three years.

### Part 2. Separate and Aggregated Annual Gross Revenues

Set forth below are the separate and aggregated annual gross revenues of Lafayette and Lafayette's controlling interest holder for the three most recently completed calendar years preceding the filing of the applicant's FCC Form 175. Neither Lafayette nor its controlling interest holder has any affiliates as defined in 47 C.F.R. § 1.2110(c)(2), (c)(5).

Entity	2001 Gross Revenues	2002 Gross Revenues	2003 Gross Revenues	Average Gross Revenues for 2001-2003
Lafayette	\$792,396.00	\$4,987,016.00	\$31,089,462.00	\$12,289,624.67
<i>Lafayette's controlling interest holders:</i>				
Duff <sup>1/</sup>	N/A	N/A	N/A	N/A
<b>Total Average Gross Revenues for 2001-2003:</b>				<b>\$12,289,624.67</b>

### Certification

Pursuant to Section 1.2110(n), Lafayette hereby certifies that the gross revenue information reported here is based on unaudited financial statements prepared in accordance with generally accepted accounting principles, is true, full and accurate to the

<sup>1/</sup> The Commission has clarified that, in calculating an applicant's gross revenues under the controlling interest standard, the personal net worth, including personal income, of its officers and directors are not attributed to the applicant. Broadband PCS Spectrum Auction Scheduled for Jan. 12, 2005, *Public Notice*, 19 FCC Rcd 18190, DA 04-3005 (rel. Sept. 16, 2004) at § II.D.4.

best of my knowledge and belief, and entitles Lafayette to "very small business" status and eligibility to receive a 25 percent bidding credit on the license it obtained in open bidding.

By:

*/s/ John M. Duff, Jr.*

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John M. Duff, Jr.  
President and CEO  
Lafayette Communications Company L.L.C.

March 7, 2005

## **EXHIBIT E: AGREEMENTS AND OTHER INSTRUMENTS**

### **AGREEMENTS SUPPORTING APPLICANT'S SMALL BUSINESS STATUS**

The following is a detailed list and summary of all agreements and other instruments (with appropriate references to specific provisions in the text of such agreements and instruments) that support Lafayette's eligibility as a small business under section 24.720(b) of the Commission's rules, including the establishment of *de facto* and *de jure* control of Lafayette Communications Company L.L.C. with John M. Duff.

#### ***Limited Liability Company Agreement of Lafayette Communications Company, L.L.C.***

On November 30, 2004, John M. Duff, Jr. and SunCom Wireless Affiliate Company L.L.C., ("SunCom") a Delaware limited liability company, entered into the Fifth Amended and Restated Limited Liability Company Agreement ("LLC Agreement").<sup>1/</sup> John M. Duff, Jr., the President and CEO of Lafayette, owns 61% of the equity of Lafayette. See Section 2. The LLC Agreement requires that Lafayette shall be managed by Mr. Duff. See Section 5. With the exception of certain extraordinary actions that require unanimous consent of the Members, Mr. Duff is the only Member that has a vote in any aspect of the management of Lafayette. Because only Mr. Duff has the controlling equity vote and sole responsibility for the management of Lafayette, he is in *de facto* and *de jure* control of Lafayette. See Section 5(a).

Pursuant to the LLC Agreement, SunCom, a direct, wholly-owned subsidiary of Triton PCS Holdings, Inc., holds a direct, non-attributable, non-controlling 39% equity interest in Lafayette. See Section 2. Triton has no vote in the management of Lafayette, and has only a limited right to vote to approve certain specified

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<sup>1/</sup> Lafayette entered into a Limited Liability Company Agreement dated as of February 9, 1999 (the "Original LLC Agreement"), and formed a limited liability company under the Delaware Limited Liability Company Act. The Original LLC Agreement was subsequently amended and restated in 1999, 2000 and 2001 prior to the 2004 amendment and restatement.

extraordinary corporate actions.<sup>2/</sup> For this purpose, the voting rights of Mr. Duff are fixed at 61% and those of Triton at 39%, regardless of future changes in capital contributions. See Section 2.

If a Member receives, at any time, a bona fide written offer from any other person or entity to acquire all of the Member's membership interest in Lafayette, and the Member receiving the third-party offer wishes to accept the offer, then the Member must deliver to the other Members an offer to sell (pro rata in accordance with their respective Equity Interests) all, but not less than all, of his interest in Lafayette on the same terms and conditions as the third-party offer. If the other Members want to purchase all of the other Member's membership interest in Lafayette they must deliver a written acceptance of the offer to the Member wishing to sell within forty-five days after its receipt. If no written acceptance is received, the Member wishing to sell his membership is permitted to accept the third-party offer. See Section 15(a).

The transfer of any membership interests in violation of the foregoing prohibition will be considered invalid, null and void, and of no force or effect. A Member has no right to grant to an assignee of its membership interest in Lafayette

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<sup>2/</sup> The extraordinary actions that require unanimous consent of the LLC Members are among those for which the Commission has recognized that a requirement of unanimous consent is appropriate to protect the fundamental interests of minority interest holders. They are:

(a) disposing of the Company's major assets; (b) incurring substantial long term debt or granting liens or security interests in the Company's assets, with exceptions for debts and encumbrances in the ordinary course of business; (c) entering any line of business other than the business of providing wireless communications services in the southeastern United States; (d) substantially changing the tax status of the Company or the way its financial books are kept; (e) assignments for the benefit of creditors or guaranteeing the debts of others; (f) lending Lafayette's funds to third parties, with exceptions for trade credits in this ordinary course of Lafayette's business; (g) changing the compensation of any officer or senior manager from that set forth in the initial annual operating budget (the annual operating budget itself, however, is not among those Company actions requiring unanimous approval); or (h) changing or permitting to be changed any aspect of Lafayette such that Lafayette would cease to be eligible to hold C and F Block PCS licenses. See Sections 5(a)-(b)(i)-(ix).

the right to become a Member of Lafayette without the written consent of all other Members of Lafayette. See Section 15(b).

In addition, no Member has the right or power to effect a voluntary withdrawal from the membership of Lafayette or to pledge its membership interest, except as provided in the LLC Agreement. See Sections 14, 16(a).

Pursuant to Section 17(a), Lafayette may admit additional Members upon receiving the written consent of all of the existing Members. Pursuant to Section 17(b), after the admission of any additional Members, Lafayette will continue as a limited liability company under the Act.

Lafayette will be dissolved, its affairs wound up, and its assets liquidated upon the written consent of all of the Members. The Members shall have the authority to perform any and all acts and to take any and all actions which may be necessary, appropriate, or incidental to continue the business Lafayette in the process of winding up the business. See Section 20.

***Lafayette Communications Company L.L.C. Master Demand Promissory Note  
with SunCom Wireless Investment Company L.L.C.***

Lafayette Communications Company L.L.C. ("Lafayette" or "Maker") entered into a master demand promissory note ("Note"), dated December 27, 2004, with SunCom Wireless Investment Company L.L.C. ("SW Investment"). SW Investment is a direct, wholly-owned subsidiary of Triton PCS Holdings, Inc., which holds an indirect non-attributable, non-controlling 39% equity interest in Lafayette. On December 28, 2004, SW Investment advanced funds in the amount of \$1,937,000 to Lafayette subject to the terms of the Note. In connection with the Note, Lafayette also has entered into a Security Agreement and a Pledge Agreement between Lafayette and SW Investment.

The following terms and conditions of the promissory note between Lafayette and SW Investment are commercially reasonable and represent an arm's length transaction.

**1. Interest Provisions**

(a) Interest accrues on the outstanding principal balance from and including the date of the initial extension of credit until paid in full at a rate *per annum* equal to 14.5% (the "Base Rate") computed on the basis of a 365-day year and actual days elapsed. All outstanding principal and accrued unpaid interest will be payable in cash on demand. See Section 1.

(b) Upon the occurrence of any event of default (which is defined in Section 5 of the Note)<sup>3/</sup> the aggregate principal amount of the Note and all other amounts due thereunder will bear interest, from the date of occurrence of the event of default until the earlier of the date on which all such amounts are paid in full and the date on which the default is cured or waived in writing by SW Investment, at an interest rate equal to the sum of the Base Rate plus 5% per annum, which is payable on demand. See Section 1.

## 2. Payment Provisions

(a) Payment on Demand. Lafayette will pay the entire principal amount of all loans, advances and other indebtedness under the Note then outstanding, together with all accrued and unpaid interest thereon.

(b) Voluntary Prepayments. Lafayette may, at any time and from time to time, prepay all or any part of the principal amount of the Note then outstanding (in integral multiples of \$50,000, or such lesser aggregate principal amount as may then be outstanding) at a prepayment price equal to 100% of such principal amount. See Section 2.

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<sup>3/</sup> Each of the following constitutes an event of default under the promissory note: (a) failure to make payments when due if the payment is not made during a cure period; (b) a default under any other term, covenant, or warranty contained in the Note, or in any security document that is not cured within 30 days; (c) if any representation, warranty or certification made or deemed made in the Note or related security document shall prove to have been false or misleading in any material respect; (d) if Lafayette makes an assignment for the benefit of creditors or admits its inability to pay its debts generally as they become due; (d) if any bankruptcy or other insolvency proceeding action is initiated against Lafayette and is not stayed, satisfied or discharged within sixty days; (e) if Lafayette ceases to exist; (f) Lafayette defaults on other debt so as to accelerate or to permit the holder of such indebtedness to accelerate Lafayette's payment obligation; (g) if there is a material adverse change in Lafayette's business or financial condition; (h) if Lafayette violates the Communications Act, or any FCC rule in a way material to its business; (i) if any of the FCC Licenses is (A) revoked, rescinded, suspended, modified in a materially adverse manner, cancelled or not renewed in the ordinary course for a full term, or (B) subject to any decision by the FCC which designates a hearing which could result in the FCC taking any action referred to in clause (A) above; or (k) if Lafayette cannot or does not proceed to complete the timely construction of facilities authorized by the FCC Licenses. See Section 5.

## OTHER AGREEMENTS

In Exhibit E to its Form 175, Lafayette disclosed, out of an abundance of caution, two third parties with whom Triton PCS Holdings, Inc. and/or its affiliates (collectively, "Triton") had agreements in place at the time that the application was filed. For clarification, the agreements are described below, although neither of these agreements directly related to the competitive bidding process in Auction 58 or to Lafayette, and therefore were not required to be disclosed under Section 1.2105(a)(2)(viii) of the Commission's rules.

1. T-Mobile USA, Inc. ("T-Mobile"). Triton has entered into an agreement with T-Mobile for reciprocal roaming onto portions of each other's networks.

2. Cingular Wireless LLC ("Cingular"). Triton has entered into an agreement with Cingular and certain affiliates thereof for the exchange of certain PCS and common carrier fixed point-to-point microwave licenses. The parties to the agreement filed two applications seeking Commission consent to the transfer of control of licenses. *See Cingular Wireless LLC and Triton PCS Holdings, Inc. Seek FCC Consent to the Transfer of Control of Licenses*, WT Docket No. 05-26, Public Notice, DA 05-168 (Jan. 26, 2005). As a result of the proposed spectrum exchange, Triton will acquire between 7.5 MHz and 20 MHz of PCS spectrum in Puerto Rico, the U.S. Virgin Islands, and parts of North Carolina and South Carolina, and Cingular will acquire between 10 MHz and 50 MHz of PCS spectrum in parts of Virginia, North Carolina and West Virginia.

## **Exhibit H Geographic Overlap**

Lafayette Communications Company L.L.C. ("Applicant") seeks a license for 10 MHz of broadband PCS spectrum in BTA 189 (Hickory-Lenoir-Morganton, NC). Grant of this license will result in a geographic overlap with spectrum held by an affiliate of a non-controlling investor in the Applicant, as described below.

As described in detail in Exhibit A, Triton PCS Holdings, Inc. ("Triton Holdings") holds an indirect non-controlling, non-attributable 39% interest in the Applicant. Triton Holdings also indirectly owns and controls Triton PCS License Company, LLC ("Triton License"). Triton License currently holds, via call sign WPOI203, 20 MHz of broadband PCS spectrum for MTA006 (Charlotte-Greensboro-Greenville, NC). Included within MTA006 is BTA189, the same market covered by the license sought by the Applicant.



**FCC 602  
Main Form**

**FCC Ownership Disclosure Information for the  
Wireless Telecommunications Services**

Approved by OMB

3060 - 0799

See instructions for

Public burden estimate

Submitted

03/07/2005 at 4:35 PM

File Number:

0002082085

**Filing Type**

1a) ☒ Current Filing

☐ Proposed Filing

1b) Is the purpose of this filing to report cellular cross-ownership holdings required pursuant to section 1.919 of the Commission's Rules? ☐ Yes ☒ No

If 'Yes', provide an exhibit with this filing that identifies the Rural Service Area market(s) involved, as well as the cellular licensee of which the filer has acquired direct or indirect ownership interest of 10% or greater.

**Filer Information**

2) First Name (if individual):

MI:

Last Name:

Suffix:

3) Filer Name (if entity):

LAFAYETTE COMMUNICATIONS COMPANY LLC

4) FCC Registration Number (FRN):

5374434

**5) Contact Information**

Name and Address:

John M Duff Jr.  
PO BOX  
Two Embarcadero Center, Suite 2300  
San Francisco CA 94111

Telephone Number:

415-788-2755

Fax Number:

415-788-7311

E-mail Address:

JDUFF@DAGLLC.com

**Related FCC Regulated Businesses of Filer**

6a) Name of all FCC-Regulated Businesses owned by Filer (use additional sheets, if necessary):	6b) Principal Business	6c) FCC Registration Number (FRN):	6d) Percent of Interest Held:
LAFAYETTE COMMUNICATIONS COMPANY LLC	WIRELESS SERVICES	5374434	100

**Signature**

**7) Typed or Printed Name of Party Authorized to Sign**

First Name:

John

MI:

M

Last Name:

Duff

Suffix:

Jr.

Title:

President & CEO

Signature:

John M Duff Jr.

Date:

3/07/2005

**WILLFUL FALSE STATEMENTS MADE ON THIS FORM OR ANY ATTACHMENTS ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. Code, Title 18, Section 1001) AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. Code, Title 47, Section 312(a)(1) AND/ OR FORFEITURE (U.S. Code, Title 47, Section 503).**

FCC 602 Main Form  
March 2005

**FCC Ownership Disclosure Information for the**  
**Wireless Telecommunications Services**  
Schedule for Disclosable Interest Holders

Approved by OMB  
3080 - 0799  
See instructions for  
Public burden estimate

**Disclosable Interest Holder Information (complete as many as required to describe all disclosable interest holders)**

1) Disclosable Interest Holder's First Name (if individual): <b>JOHN</b>	MI: <b>M</b>	Last Name: <b>DUFF</b>	Suffix: <b>Jr.</b>
2) Disclosable Interest Holder's Name (if entity):		3) FCC Registration Number(FRN): <b>0</b>	
4) Disclosable Interest Holder's Address: <b>Two Embarcadero Center, Suite 2300 San Francisco CA 94111</b>			
5) Type of Interest in Filer ( ) (refer to Instructions for a list of codes): <b>Direct Ownership Interest in Filer Key Management Personnel/other:controlling interest holder</b>	6) Disclosable Interest Holder is a (n): ( ) (refer to instructions for list of codes): <b>Individual</b>		7) Percent of Interest Held in Filer: <b>61</b>
8) Disclosable Interest Holder's Type of Ownership ( ) (refer to instructions for a list of codes): <b>Other:controlling interest holder</b>		9) Disclosable Interest Holder's Country of Citizenship or Jurisdiction of Formation: <b>United States US</b>	

**Related FCC Regulated Businesses of Disclosable Interest Holders (repeat for each interest holder identified)**

10a) Name and address of all FCC-Regulated Businesses owned by the Disclosable Interest Holder listed in Item 1 or 2 (use additional sheets, if necessary)	10b) Principle Business	10c) FCC Registration Number(FRN)	10d) Percent of Interest Held
<b>LAFAYETTE COMMUNICATIONS COMPANY LLC</b>	<b>WIRELESS SERVICES</b>	<b>5374434</b>	<b>61</b>

**FCC 602  
Schedule A**

**FCC Ownership Disclosure Information for the  
Wireless Telecommunications Services**

Approved by OMB  
3060 - 0799

See instructions for  
Public burden estimate

**Schedule for Disclosable Interest Holders**

**Disclosable Interest Holder Information (complete as many as required to describe all disclosable interest holders)**

1) Disclosable Interest Holder's First Name (if individual):	MI:	Last Name:	Suffix:
2) Disclosable Interest Holder's Name (if entity): SunCom Wireless Affiliate Company, LLC		3) FCC Registration Number(FRN): 12230330	
4) Disclosable Interest Holder's Address: 103 Foulk Road, Suite 202 Wilmington DE 19083			
5) Type of Interest in Filer ( ) (refer to Instructions for a list of codes): Direct Ownership Interest in Filer	6) Disclosable Interest Holder is a (n): ( ) (refer to instructions for list of codes): Limited Liability Company		7) Percent of interest Held in Filer: 39
8) Disclosable Interest Holder's Type of Ownership ( ) (refer to instructions for a list of codes): Other:non-controlling, non-attributable investor		9) Disclosable Interest Holder's Country of Citizenship or Jurisdiction of Formation: United States US	

**Related FCC Regulated Businesses of Disclosable Interest Holders (repeat for each interest holder identified)**

10a) Name and address of all FCC-Regulated Businesses owned by the Disclosable Interest Holder listed in Item 1 or 2 (use additional sheets, if necessary)	10b) Principle Business	10c) FCC Registration Number(FRN)	10d) Percent of Interest Held
Lafayette Communications Company LLC	Wireless Services	5374434	39

**FCC 602**  
Schedule A

**FCC Ownership Disclosure Information for the**  
**Wireless Telecommunications Services**  
Schedule for Disclosable Interest Holders

Approved by OMB  
3060 - 0799  
See instructions for  
Public burden estimate

**Disclosable Interest Holder Information (complete as many as required to describe all disclosable interest holders)**

1) Disclosable Interest Holder's First Name (if individual):	MI:	Last Name:	Suffix:
2) Disclosable Interest Holder's Name (if entity): Suncom Wireless Investment Co., LLC		3) FCC Registration Number(FRN): 12220125	
4) Disclosable Interest Holder's Address: 103 Foulk Road, Suite 202 Wilmington DE 19083			
5) Type of Interest in Filer ( ) (refer to instructions for a list of codes): Indirect Ownership Interest in Filer	6) Disclosable Interest Holder is a (n): ( ) (refer to instructions for list of codes): Limited Liability Company		7) Percent of Interest Held in Filer: 39
8) Disclosable Interest Holder's Type of Ownership ( ) (refer to instructions for a list of codes): Other:non-attributable, non-controlling equity and voting interest		9) Disclosable Interest Holder's Country of Citizenship or Jurisdiction of Formation: United States US	

**Related FCC Regulated Businesses of Disclosable Interest Holders (repeat for each interest holder identified)**

10a) Name and address of all FCC-Regulated Businesses owned by the Disclosable Interest Holder listed in Item 1 or 2 (use additional sheets, if necessary)	10b) Principle Business	10c) FCC Registration Number(FRN)	10d) Percent of Interest Held
Lafayette Communications Company LLC	Wireless Services	5374434	39
Triton PCS License Company LLC	Wireless Services	3246055	100

**FCC 602**  
**Schedule A**

**FCC Ownership Disclosure Information for the**  
**Wireless Telecommunications Services**

Approved by OMB  
3060 - 0799  
See instructions for  
Public burden estimate

**Schedule for Disclosable Interest Holders**

**Disclosable Interest Holder Information (complete as many as required to describe all disclosable interest holders)**

1) Disclosable Interest Holder's First Name (if individual):	MI:	Last Name:	Suffix:
2) Disclosable Interest Holder's Name (if entity): Triton PCS Holdings, Inc.		3) FCC Registration Number(FRN): 7414907	
4) Disclosable Interest Holder's Address: 1100 Cassatt Road Berwyn PA 19312			
5) Type of Interest in Filer ( ) (refer to Instructions for a list of codes): Indirect Ownership Interest in Filer	6) Disclosable Interest Holder is a (n): ( ) (refer to instructions for list of codes): Corporation		7) Percent of Interest Held in Filer: 39
8) Disclosable Interest Holder's Type of Ownership ( ) (refer to instructions for a list of codes): Other: non-attributable, non-controlling equity and voting interest		9) Disclosable interest Holder's Country of Citizenship or Jurisdiction of Formation: United States US	

**Related FCC Regulated Businesses of Disclosable Interest Holders (repeat for each interest holder identified)**

10a) Name and address of all FCC-Regulated Businesses owned by the Disclosable Interest Holder listed in Item 1 or 2 (use additional sheets, if necessary)	10b) Principle Business	10c) FCC Registration Number(FRN)	10d) Percent of Interest Held
Lafayette Communications Company LLC	Wireless Services	5374434	39
Triton PCS License Company, LLC	Wireless Services	3246055	100

10a) Name and address of all FCC-Regulated Businesses owned by the Disclosable Interest Holder listed in Item 1 or 2 (use additional sheets, if necessary)	10b) Principle Business	10c) FCC Registration Number (FRN)	10d) Percent of Interest Held
Triton License Newco, LLC	Wireless Services	12052270	100
AWS Network Newco, LLC	Wireless Services	11700556	100

Lafayette Communications Company L.L.C.

Exhibit to Form 602

Page 1 of 1

Triton PCS Holdings, Inc. directly holds a 100 percent interest in SunCom Wireless Affiliate, Inc., which holds a direct, 39 percent interest in the filer, Lafayette Communications Company, L.L.C. Accordingly, Triton PCS Holdings, Inc. holds an indirect, non-controlling 39 percent interest in Lafayette Communications Company, L.L.C.